

SLR:KAN:ESW
F.#2007R00237

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
- - - - - X

UNITED STATES OF AMERICA,
Plaintiff,
-against-

AMENDED FINAL ORDER
OF FORFEITURE

07 CR 641 (S-3) (NGG)

ZEV SALTSMAN,
Defendant.

- - - - - X

WHEREAS, on or about March 11, 2010, the defendant, ZEV SALTSMAN, pleaded guilty to a Superseding Information, charging him with violations of Title 15 U.S.C. §§ 78j(b) and 78ff;

WHEREAS, pursuant to the defendant's plea agreement, the defendant has agreed to the entry of an Order of Forfeiture in the amount of \$5,000,000.00 in U.S. currency (the "Forfeiture Money Judgment"), which money constitutes or is derived from proceeds that the defendant obtained, directly or indirectly, as a result of the defendant's violation of 15 U.S.C. § 78j(b) and 78ff;

WHEREAS, pursuant to the defendant's plea agreement, on March 11, 2010, the defendant submitted a check to the United States Attorney's Office for \$3,000,00.00 made payable to the United States Marshals Service in partial satisfaction of the

My Forfeiture Money Judgment;

WHEREAS, pursuant to the defendant's plea agreement, the

defendant further consented to the forfeiture of \$2,000,000.00 of \$3,250,000.00 that the defendant previously deposited with the registry of this Court as bail in this matter to satisfy the balance of the Forfeiture Money Judgment;

WHEREAS, on April 12, 2010, the Xybernaut Corporation ("Xybernaut"), on behalf of the Xybernaut Litigation Fund, submitted a Claim to the above-referenced \$5,000,000.00 that was remitted to the United States in satisfaction of the Forfeiture Money Judgment; and

WHEREAS, on July 12, 2010, Xybernaut and the government entered into a Stipulated Settlement Agreement under which the government agrees to release \$500,000.00 of the remitted funds to Xybernaut in full satisfaction of Xybernaut's Claim;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. Pursuant to 18 U.S.C. § 981(a)(1)(C), 21 U.S.C. § 853, and 28 U.S.C. § 2461, a money judgment in the amount of \$5,000,000.00 is entered against the defendant.

2. The Defendant caused \$3,000,000.00 to be paid by check on March 11, 2010. The defendant represents that he has an exclusive ownership in the \$3,000,000.00 and transfers these funds to the United States free and clear of any liens or interests of any third parties.

3. The Clerk of the Court is further directed to transfer \$2,000,000.00, which had previously been posted as part of

the defendant's bail, from the registry of the Court to the United States Marshals Service in full satisfaction of the remaining portion of the Forfeiture Money Judgment. The defendant represents that he has an exclusive ownership in the \$2,000,000.00 and transfers these funds to the United States free and clear of any liens or interests of any third parties. The remaining funds posted by the defendant as bail are to remain in the registry of the Court pending further order of this Court.

4. The Court orders forfeited to the United States \$4,500,000.00 of the funds remitted in satisfaction of the Forfeiture Money Judgment, plus all accrued interest.

5. The United States Marshals Service is further directed to release to Xybernaut \$500,000.00 of the funds remitted in satisfaction of the Forfeiture Money Judgment, as agreed to in the Stipulated Settlement Agreement, in the form of a check made payable to Daniel J. Hurson, the Law Offices of Daniel J. Hurson, 1660 L Street, N.W., Suite 506, Washington, D.C. 20036.

6. Pursuant to Fed. R. Crim. P. 32.2(b)(3), this Order shall become final as to the defendant at the time of sentencing and shall be made part of the sentence and included in the judgment.

7. This Order of Forfeiture shall be binding upon the defendant and Xybernaut, their successors, administrators, heirs, assigns and transferees, and shall survive the bankruptcy of any of

them.

8. The Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Fed. R. Crim. P. 32.2(e).

9. The Clerk of the Court shall forward four (4) certified copies of this Order to Assistant U.S. Attorney Evan Weitz, U.S. Attorney's Office, Eastern District of New York, 271 Cadman Plaza East, Brooklyn, New York 11201.

Brooklyn, New York
Dated: July 26, 2010

SO ORDERED:

s/Nicholas G. Garaufis

NICHOLAS G. GARAUFIS
HONORABLE NICHOLAS G. GARAUFIS
UNITED STATES DISTRICT JUDGE